REMARKS

The Action first asserts that this Application contains sequence disclosures that are encompassed by the definition for nucleotide sequences set forth in 37 CFR 1.821(a)(1) and (a)(2) and fails to comply with requirements of 37 CFR 1.821 through 1.825, citing particularly Figures 15-17. Applicants have above amended the Specification paragraphs for Figure 15, 16 and 17 to add and include reference to SEQ IDS for the sequence disclosures therein encompassed by the definition for nucleotide sequences. In addition, Applicants have above amended the Specification additionally at pages 91 and 92 to add and include reference to appropriate SEQ IDS. Applicants allege that the above amendments to the Specification do not add any new matter. Applicants submit concurrently herewith a revised and substitute Sequence Listing, as a paper copy and in computer readable form (CRF) for entry and to replace any and all prior submitted sequence listings with respect to the instant application. Applicants assert that the content of the paper and computer readable copies are the same and, where applicable, include no new matter. Applicants respectfully request that the Examiner accept the Specification and sequence listing as fully complying with the requirements for patent applications containing nucleotide and/or amino acid sequence disclosures, including as set out in 37 CFR 1.821 through 1.825.

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

Group I. Claims 1-20, drawn to an oligonucleotide, which is complementary to a region of KSR RNA, classifiable in class 514, subclass 44.

Group II. Claims 21-31, drawn to a method of inhibiting the expression of KSR, classifiable in class 424, subclass 93.2.

Group III. Claim 32, drawn to a method of identifying compounds or agents which inhibit the expression of KSR, classifiable in class 424, subclass 7.1.

Group IV. Claim 33, drawn to a ribozyme that cleaves KSR mRNA, classifiable in class 536, subclass 24.5.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group I, with traverse, Claims 1-20, which are drawn to an oligonucleotide, which is complementary to a region of KSR RNA, classifiable in class 514, subclass 44.

The Examiner has further required an additional restriction upon election of Group I. Specifically, the Examiner asserts that the antisense sequences of Claims 6-8, while they each target and modulate the expression of KSR, they are considered to be unrelated since each antisense sequence claimed is structurally and functionally independent and distinct. The Examiner requires Applicants to elect one (1) antisense sequence from claims 6-8, the group of: nucleotides 124 to 243 of SEQ ID NO:1; SEQ ID NO: 6-8; nucleotides 97-216 of SEQ ID NO:25; nucleotides 124 to 141 of the sequence of human KSR, corresponding to 151 to 168 of the sequence of SEQ ID NO:3; nucleotides 154 to 171 of SEQ ID NO:27 (the sequence of human KSR); nucleotides 181 to 198 of SEQ ID NO:4 (the sequence of mouse KSR); nucleotides 187 to 204 of the sequence of human KSR, corresponding to 214 to 231 of the sequence of SEQ ID NO:5; and SEQ ID NO: 29-38. Responsive to this requirement, Applicants elect, with traverse, a sequence substantially complimentary to nucleotides 187 to 204 of the sequence of human KSR, corresponding to 214 to 231 of the sequence of mouse (SEQ ID NO:5).

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions,

restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the restricted invention or groups designated by the Examiner fail to define compositions and methods, with properties so distinct as to warrant separate Examination and Search. Applicants assert that the antisense sequences of claims 6-8 fail to define compositions with properties so distinct as to warrant separate Examination and Search. Each of the antisense oligonucleotides target and modulate the expression of KSR. The search of the antisense sequences for each and all of claims 6-8 can be made without serious burden and Applicants request that the Examiner examine them on the merits. In particular and further, Applicants point out that the elected antisense sequences, specifically a sequence substantially complimentary to nucleotides 187 to 204 of the sequence of human KSR, corresponding to 214 to 231 of the sequence of mouse (SEQ ID NO:5), include exemplary such sequences SEQ ID NO:28 (AS-ODN1 human) and SEQ ID NO:8 (AS-ODN1 mouse), which correspond identically in sequence. Applicants assert that at least SEQ ID NO: 28 and SEQ ID NO:8 be rejoined with and examined in conjunction with the elected antisense sequences.

In addition, or alternatively, Claims 1-20 of Group I are drawn to oligonucleotides complementary to KSR that are fundamentally related to Claims 21-31 of Group II, drawn to methods of inhibiting expression of KSR comprising contact a cell with oligonucleotides complementary to KSR. The search for any of the methods using oligonucleotides separately classified by the Examiner as the invention of Group II would require an additional search of the **identical** classes wherein the oligonucleotides are classified, thus resulting in a duplicate search for the same material. Thus, Applicants submit that the Search and Examination of the entire

Application, or, at least, of the antisense sequences of all of claims 6-8, or of Group II with Group I can be made without serious burden, and therefore the Examiner must examine all of the claims of claims 6-8 or of Group II with Group I of the Application on the merits.

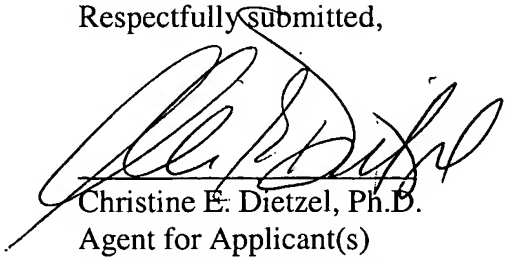
The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to antisense sequences of claims 6-8 or to Group I and Group II is in order.

The Examiner has required restriction between product and process claims. Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance. Applicants note and point out that inventions I, claims 1-20 directed to an oligonucleotide, and II, claims 21-31 directed to a method of inhibiting the expression of KSR, are related as product and process of use.

No additional fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,



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